

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**EDWARD BYBLE,**

**Plaintiff,**

**v.**

**Civil Action 2:17-cv-578  
Judge Algenon L. Marbley  
Magistrate Judge Jolson**

**DIAMOND CUT LAWN  
& LANDSCAPE, LLC, et al.,**

**Defendants.**

**ORDER**

On October 11, 2017, this Court issued an Order noting that there is no record that service has been made upon Defendant and directing Plaintiff to show good cause within fourteen days why this action should not be dismissed and why an extension of time to effect service should be allowed. (Doc 6 (citing Fed. R. Civ. P. 4(m))). Plaintiff filed a response on October 25, 2017, moving for an extension until November 24, 2017, to effect service. (Doc. 9). The Court, in its discretion, allowed Plaintiff an extension of time to effect service until November 13, 2017. (Doc. 11). Thus, the Motion was granted in part. (*Id.*).

On November 14, 2017, Plaintiff filed a second Motion, this time requesting an extension until December 14, 2017, to effect service. (Doc. 11). Plaintiff also requested that the Court appoint its counsel as a process server under Rule 4(c)(3) of the Federal Rules of Civil Procedure. (*Id.*).

In ruling on Plaintiff's second Motion, this Court noted that Plaintiff demonstrated minimal effort in attempting to effect service in this case despite having some 140 days to do so. (*See, e.g.*, Doc. 9 at 1) (stating that counsel was unaware until the Court's order on October 11, 2017, that service had not been effected). Consequently, the Court saw no reason to specially

appoint counsel for service or to extend the time for service by thirty days. However, the Court in its discretion allowed Plaintiff until November 24, 2017, to effect service. Thus, the Court granted the Motion in part. (Doc. 13). The Court noted that there would be no further extension of this deadline.

The November 24, 2017 deadline has passed and Plaintiff has failed to effect service. Based on the foregoing, it is **RECOMMENDED** that this action be dismissed.

**Procedure on Objections to Report and Recommendation**

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: November 27, 2017

/s/ Kimberly A. Jolson  
KIMBERLY A. JOLSON  
UNITED STATES MAGISTRATE JUDGE